



Addis Ababa University

School of Law

LL.M. in Urban Property and Land Law

**Rethinking Regularization of Informal Settlements in
Urban Ethiopia: Addis Ababa in Focus**

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Focus

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DECLARATION

I, Melese Worku, hereby declare that this thesis is my own original and autonomous work. All sources and aids used have been indicated as such. All texts either quoted directly or paraphrased have been dulyacknowledged and indicated by footnote citations. Full bibliographic details are given in the reference list. This work has not been submitted to any other examination authority or institution.

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Dedication

This Thesis research was done in trying current situations in Ethiopia and as such, I would like to dedicate it to my father, Worku Terefe, who suffered a lot due to bodily injury caused by perpetrators by repeated gun shots in the absence of any fault by his side; happily, despite this, he was saved by the grace of the Almighty God.

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First, everything happens with the will of God and I thank Him for His mercy and all what happens. Next, I warmly thank my advisor of this thesis, Dr. Muradu Abdo, for his effort in shaping this thesis to reach up to this stage with his patience. I also want to express my love to my family. My first son, Ananiya Melese, born during my study, deserves my gratitude for giving me energy when I see his face and remember him in any place, my wife, W/ro Eskedar Abay, my mother-in-law, W/ro Azanu Mesno, and my sister in-law, W/ro Tiruwork Abay, for their support and encouragement by sharing my ideas and feelings.

Abstract

Land issues in our country are central to many facets of life. Especially, urban land for housing in cities generally and in Addis Ababa particularly is very debatable when examined its fair distribution. That is why bypassing the regular way of land occupation, both those in need and land speculators are tending to prefer the irregular or informal way of occupation. While the FDRE Constitution prohibits citizen or individual ownership of land, it allows possession that is regulated by subordinate laws. The current urban landholding proclamation, while prohibiting occupation of urban land without leasehold, gives a transitional period for regularization of informal settlements, as much as they align with urban plan, by city administrations and regions enactment of regulations. The study has explored the regularization mechanism of informal settlements in Addis Ababa City Administration where large-scale informal settlements occur. The study has analyzed whether regularization is advisable in adhering to the rule of law and urban plans as well as its possibility of non-contravention with the urban planning laws and the plans themselves.

Issues in this thesis were examined through employing desk review, literature review, and key informants in addition to analyzing laws and cassation decisions. At the completion of this thesis, it was found that regularization of informal settlements could not be applied on holdings after May 2005 due to its closure by the urban land laws. It is not also advisable to continue regularization of informal settlements, which most of the time infringe on urban plans and cause various problems in urban settings. Therefore, it is better to satisfy the housing needs of citizens by employing housing cooperatives, condominium housing, and other mechanisms.

Table of Contents

Contents	
Dedication	iv
Acknowledgements	v
Abstract	vi
Chapter 1: Introduction	1
1.1. Background of the Study	1
1.2. Statement of the Problem	2
1.3. Literature Review	3
1.4. Objective of the Study	4
1.4.1. Main Objective	4
1.4.2. Specific Objectives	4
1.5. Research Questions	5
1.5.1. Central Question	5
1.5.2. Specific Questions	5
1.6. Significance of the Study	5
1.7. Methodology of the Research	6
1.7.1. Primary Sources	6
1.7.2. Secondary Sources	6
1.8. The Scope of the Study	7
1.9. Limitation of the study	7
1.10. Organization of the Study	7
Chapter Two: Nature, Modes and Impacts of Informal Settlements in Urban Ethiopia	7
2.1. Nature and Modes of informal Settlements	7
2.2. Challenges and Impacts of Informal settlements	10
2.3 Abuse of Scarce Urban Land Resource	12
2.4 Responses to Informal Settlements	13
2.5 Alternative Forms of Tenure	15
2.6 Chapter summary	17

Chapter Three: Laws on Regularization of Informal Settlements in Urban Ethiopia	18
3.1. Proclamations and Regulations Related to Urban Land	18
3.2. Urban Land Directives of Regularization	23
3.3. Cassation Decisions of the Federal Supreme Court	31
3.4. International laws related to Informal settlement	33
3.5 Chapter summary	35
Chapter Four: The Experience of South Africa	36
4.1 The South African Approach to Informal Settlements: Setting and Experience	36
4.2 Key Lessons to Draw for Ethiopia	38
Chapter Five: Findings, Conclusion and Recommendations	39
5.1 Findings	39
5.2 Conclusion	42
5.3 Recommendations	43
Bibliography	43
Books, Researches and Articles	43
Legislation	46
Cassation Decisions	48
List of informants	48
List of FGD participants	49
Annex-1: Interview Guide	50
Annex-2: Attachment of Copies of Cassation Decisions	50

Chapter 1: Introduction

1.1. Background of the Study

Informal settlement is a problem of almost all urban areas in the world despite differences in degree. Between 40% and 70% of urban dwellers in the developing world, live in informal settlements.¹ It occurs through various ways such as, illegally occupying urban land and constructing houses without building permit, illegal subdivisions of land, or illegal deviations from approved land use, usually on the urban fringe.² The urban Ethiopia is facing a rampant level of informal settlements due to the increasing rates of urban expansion into peri-urban areas. A study shows that 85% of the housing concentration in Addis Ababa resides in unplanned areas or informal settlements.³

About 30 percent of houses in Bahir Dar city are categorized as informal settlements.⁴ Slightly above 13.25 percent of settlement areas in Mekelle City are informal.⁵ This shows a high prevalence of informal settlements in Ethiopian urban centers. Although high capital is invested in the construction of houses in these areas, the problems may surpass the advantages if not properly handled. Beyond creating a fertile environment for a dead capital,⁶ informal settlements pose social problems related with negative impacts on environmental, health and aesthetics due to its contravention of urban planning and zoning. Literature recommends in favor of the formalization or regularization of informal settlements based on their contribution to adequate housing for the urban poor.⁷ In Ethiopia, there is a high demand to build economically productive, socially inclusive, environmentally sustainable and well-governed cities.⁸ The widely

¹ FIG and UNECE, *Formalizing the Informal: Challenges and Opportunities of Informal Settlements in South-East Europe*, p. 19.

² Ibid.

³ Daniel Lirebo (2011), *Udp-705 Housing in Urban Context: Informal Settlements in Addis Ababa*, Addis Ababa University, p.4.

⁴ Daniel Weldegebriel Ambaye, *Informal Settlement in Ethiopia: the Case of two Kebeles in Bahir Dar City*, FIG Working Week 2011, *Bridging the Gap between Cultures*, Marrakech, Morocco, 18-22 May 2011, p.13.

⁵ Daniel S. Negese (2020), *Overall Assessment and Mapping of Informal Settlement in Mekelle City*, *Social Inclusion and Energy Management for Informal Urban Settlements*, p.3.

⁶ De Soto, H., (2000), *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic Books: New York City), pp.50-242.

⁷ Alain Durand-Lasserve et al, *Regularization and integration of irregular settlements: lessons from experience*, UNDP, UN-Habitat, World Bank, Urban Management Program (UMP), Working Paper no.6, 113p., 1996, *Urban Management and Land*. halshs-01186713.

⁸ United Nations Human Settlements Programme (UN-Habitat) (2014), *Structural Transformation in Ethiopia: The Urban Dimension*, pp.73-83.

done studies in Ethiopia mainly suggest the need to regularize informal settlements without taking a consideration of the laws of urban land and planning. They blame the government as having a little political will to regularize informal settlements in the urban context.⁹

Regularization of informal settlements is very much challenging for every country. It is not an easy task to accomplish formalization as it involves taking much care with respect to legalization of an informal or illegal possession of urban land, deviating from building regulations, and making a flexible urban planning. Above all, urban land is very much precious and scarce which implies that a due care must be taken while applying to regularize especially an illegally occupied or invaded urban land.

The study aspires to reconsider regularization of urban land in Ethiopia. Bypassing the urban land acquisition and planning laws disturbs the legal order if we only think of always regularizing informal settlements without observing the laws of the land.

1.2. Statement of the Problem

The State and Peoples own land in Ethiopia, both rural and urban, and it is not subject to sale and other means of exchange.¹⁰ Although the demand of urban land is high in Ethiopia, it is imbalanced with the supply of urban land. Urban dwellers need to have their own houses so that they resort to get urban land in a short cut. When they get urban land informally, they end up with informal settlements. These informal settlements are associated with problems of illegal invasion of public land, constructing houses without construction permit by violating urban planning regulations. When urban residents violate urban plans, then the areas will be without proper sewerage pipes and channels resulting in accumulation of wastes and the beautification of the area will be hampered. Various hazardous floods may occur through damaging human lives and properties. It is difficult to extend infrastructure like roads, electricity, water and other facilities.

Above all, informal settlements in Ethiopia are mainly characterized by illegal invasion of urban land and illegal construction of houses without the approval of concerned authorities. Informal

⁹Supra note 3, p.40.

¹⁰ Art. 40(3), Constitution of Federal Democratic Republic of Ethiopia Proclamation No.1/1995, 1st Year No.1, 25th August 1995.

settlements in Ethiopia are described as ‘chereka bet’, whose literal English translation may be ‘Moon house’, and to show that they are occupied at night and houses are constructed with the aid of the Moon light. This is normally known as squatting. Informal settlements have been expanding at an alarming rate in the expansion areas of Addis Ababa accounting for 30% in 2001.¹¹ From then onwards an estimation of 85% of the housing in Addis Ababa is informal.¹²

The government of Ethiopia enacted urban land laws to combat the illegal invasion of urban land and informal settlements. The major one is the Urban Land Lease Proclamation No. 721/2011, which has criminal and civil sanctions. However, disregarding these laws, many people invade urban land and claim regularization after constructing houses on that land. Literature nevertheless recommends regularization despite all these problems.¹³

1.3. Literature Review

Literature is ample in the area of informal settlements. Most of them recommend formalization or legalization globally as well as in Ethiopia. Daniel Lirebo concluded that although there are illegal urban land occupations of plots under public ownership, it is not advisable to demolish the informal settlements without securing any other alternative to the settlers.¹⁴ Others recommend that it is better for the city government of Addis Ababa to prevent new squatter settlements before they are built up than to demolish and make dwellers homeless.¹⁵

Most informal settlements show a character of slums. In 2001, around one billion people, which might be doubled by 2030, were found to be slum dwellers in which 71.9% were in Sub-Saharan Africa that is the largest proportion.¹⁶ Millennium Development Goal 7, Target 11, aimed to significantly improve the lives of at least 100 million slum dwellers by the year 2020.¹⁷ Under the Sub-Saharan region, Ethiopia is a country with the third largest informal settlers following

¹¹ Supra note 3, p.5.

¹² Ibid.

¹³ United Nations Human Settlements Programme (UN-HABITAT) (2010), A Practical Guide for Conducting: Housing Profiles, Supporting evidence-based housing policy and reform, First revision, November 2011, ISBN Number: 978-92-1-132028-2, p.73.

¹⁴ Supra note 3, p.34.

¹⁵ Minwuyelet Melesse (2005), City Expansion, Squatter Settlements and Policy Implications in Addis Ababa: The Case of Kolfe Keranio Sub-City, Working Papers on Population and Land Use Change in Central Ethiopia, Series A No. 2, p.25.

¹⁶ United Nations Human Settlements Programme (UN-Habitat) (2003), the Challenges of Slums: Global Report on Human Settlements, p.XXV-XXVI,13.

¹⁷ Id, p.XXVI.

Mozambique and Tanzania and among the Ethiopian cities, Addis Ababa having more than one-fourth of the county's urban population is experiencing the growing challenge of informal settlements against which preventive and curative measures are proposed.¹⁸ The literature recommends regularization of informal settlements in Ethiopian cities condemning demolition and without considering their harmony with the urban plans. They think of reconsidering urban plans after regularization. However, urban land laws focus regularization to be applied if possessions held without the authorization of the appropriate body are found to be acceptable in accordance with urban plans and parceling standard following the regulations to be issued by regions and city administrations.¹⁹ The Urban Lands Lease Holding Proclamation No. 721 of 2011 further states that the regularization process to be undertaken by regions and city administrations shall only be effective within four years of the coming into force of the Proclamation.²⁰ The law has a little room for regularization of informal settlements even if there is a pressure by researches to apply regularization in urban Ethiopia. It is, therefore, important to reconsider regularization if applied against the law.

1.4. Objective of the Study

1.4.1. Main Objective

The main objective of this study is to critically assess regularization of informal settlements in urban Ethiopia, especially in Addis Ababa.

1.4.2. Specific Objectives

This study is aimed at:

- Examining major Ethiopian laws related to urban land acquisition and planning to identify the major modes of informal settlements in urban areas of Ethiopia.
- Assessing whether regularization of informal settlements without contravening urban land and planning laws is possible in urban Ethiopia or not.
- Showing the absurdity of continuing regularization of informal settlements in Urban Ethiopia.

¹⁸ Jemal Abagissa (2019), Informal Settlements in Addis Ababa: Extent, Challenges and Measures Taken, Journal of Public Administration, Finance and Law Issue 15/2019, P.8.

¹⁹ Art. 6(4), Urban Lands Lease Holding Proclamation No. 721/2011, Negarit Gazzett, 18th Year No. 4, 28th November 2011.

²⁰ Ibid, Art. 6(5).

1.5. Research Questions

1.5.1. Central Question

In order to address the central or main objective of the research the main question is framed as follows.

Is it possible to undertake regularization of informal settlements in urban Ethiopia without contravening relevant urban land and urban planning laws? Is it advisable to continue regularizing such settlements?

1.5.2. Specific Questions

To address the main question of this research the following specific questions are designed.

- What are the major ways of informal settlements in urban Ethiopia?
- What are the pre-requisites for regularization of informal settlements?
- What is the extent of Ethiopian urban land laws in dealing with regularization of informal settlements?
- What is the impact of regularization of informal settlements on the rule of law especially in adhering to pertinent urban land and planning laws?

1.6. Significance of the Study

The study is concerned to provide the following significance. This research is designed to have academic, practical and legal significances. It is considered to help governmental bodies to reconsider their practice while regularizing informal settlements. They may also use it as a guide when they are encountered with problems in the accomplishment of their usual functions. Being a perplexing issue in Ethiopia and having a peculiar nature, informal settlements are prone to so many disputes so that there is an exceeding need to resolve them practically.

It also helps academicians to delve into further research as the proliferation of informal settlements is a perpetual problem in the process of urbanization that needs a strong policy option.

The research is hoped to recommend the legislative body to the improvement of the legal frameworks associated with regularization of informal settlements.

The findings in this research are also hoped to help judges and land experts involved with the settlement of urban land and property disputes in Ethiopia.

Therefore, this research is believed to be new which promotes proper urban land use and development. It also assesses the effective mechanism of preventing unlawful urban land invasion.

1.7. Methodology of the Research

The research involves both doctrinal and non-doctrinal legal research in a qualitative method. The research is doctrinal, in which it analyzes laws related to urban land and buildings in the Ethiopian legal system. It is also non-doctrinal in a way that it deals with practical problems by identifying major causes of informal settlements through literature review and observation in order to show whether there is a possible way of formalization mechanism of informal settlements in urban Ethiopia or not. To identify major problems associated with informal settlements and to show their solutions, both primary and secondary sources are employed.

1.7.1. Primary Sources

The Urban Lands Lease Holding Proclamation No. 721/2011, Regulations and Directives with respect to urban land, Building Proclamation No. 624/2003, Federal Supreme Court Cassation Bench decisions related with the matter at hand are going to be analyzed and used as primary sources.

Interviewing selected individuals having intimacy to urban land administration and practical experience. Focused Group Discussion was also employed to collect all the necessary information and observations that help to understand the identified problem as primary sources.

1.7.2. Secondary Sources

Next to dealing with primary sources, secondary sources like court cases, published and unpublished books, articles, internet sources and literature related with the title was used. The experience of the Republic of South Africa on the matter is dealt to compare it with the Ethiopian situation. International instruments and standards have been also be discussed on the matter.

1.8. The Scope of the Study

Informal settlement is a phenomenon of almost all jurisdictions of the world. Due to time and financial constraints, the study only focuses on highlighting regularization of informal settlements in urban Ethiopia in general and Addis Ababa in particular with a comparative experience of South Africa. As it is hardly possible to assess all urban centers in Ethiopia, a particular emphasis is given to Addis Ababa.

1.9. Limitation of the study

Being limited by time and finance, the author carried out the work only employing literature review, limited interview and Focused Group Discussion together with the analysis of laws, court cases and Federal Supreme Court Cassation Decisions. The author faced as a challenge shortage of legal research works in the title and scope taken; to mitigate this author resorted to natural and social science researches in the area occasionally.

1.10. Organization of the Study

The study is structured in five chapters. The first chapter is an introduction. The second chapter is about the nature and modes of informal settlements. Under this chapter, informal settlements are defined and their characteristics are identified. The third chapter is about regularization of informal settlements where regularization is defined and Ethiopian laws treating regularization are dealt. The fourth one deals with the experience of South Africa to draw some practical and comparative experience of handling informal settlements other than regularization. The last chapter is about the analysis, findings conclusion and recommendations.

Chapter Two: Nature, Modes and Impacts of Informal Settlements in Urban Ethiopia

2.1. Nature and Modes of informal Settlements

Ethiopia, having 925 urban centers in 2004, with the second largest population in Africa, is characterized as one of the least urbanized and with the fastest rate of urbanization.²¹ The urbanization process in Ethiopia is accompanied by informal settlements. Informal settlement is synonymous with self-planned, unplanned, squatter, unauthorized, illegal, irregular settlement,

²¹United Nations Human Settlements Programme (UN-HABITAT), Nairobi, 2007, Situation Analysis of Informal Settlements in Addis Ababa, p.1.

and informal development. Informal settlements are referred to as *barridas* (Peru), *kachi Abadis* (Pakistan), *kampung* (Indonesia), *shantytowns* (English-speaking Africa), *favela* (Brazil), *bidonville* (French-speaking Africa), *Gecekonu* (Turkey), and other terms in other countries.²² Most informal settlements share common features, such as being self-built by residents using local building materials, skills, designs, and technology under eviction threats; without observance of building laws and standards.²³

Informal settlements are the substance of slums. Alain Durand Lasserre explained the relationship of slums and informal settlements in such a way that “squatter settlements on public or private land, illegal commercial suburban land subdivisions on private or customary land and occupation of overcrowded, dilapidated buildings in city centers or densely urbanized areas are areas commonly designated as slums.”²⁴

The situation in Ethiopia is not different. In this regard, informal settlements may reveal characteristics such as illegal land occupation, non-compliance with building codes and infrastructure standards, or both.²⁵ Most informal settlements are formed through land encroachment and self-help housing, or through the illegal informal subdivision of legally held plots and market transactions.²⁶ Informal tenure is frequently associated with squatting, a practice in which households occupy someone else's land without paying monetary compensation.²⁷

Informal settlements are understood to be settlements upon the whim of individual settlers. They have the nature of illegal settlement. The land on which the informal settlers occupy may be owned by government or possessed by another individual where the occupier may enter into an illegal transaction. There is no formal transfer of possession to the individual who informally occupies the land by hoarding and constructing a substandard house without securing a construction permit. Therefore, the nature of informal settlements in Ethiopia reveals that illegal occupation out of the permission of the law or authority, illegal construction and contravening

²² Fikreselassie Kassahun Abebe (2011), *Modelling Informal Settlement Growth in Dar es Salaam, Tanzania*, M.Sc. Thesis, University of Twente, Enschede, Netherlands, p.18.

²³ *Ibid.*

²⁴ Alain Durand-Lasserre (2006), *Informal Settlements and the Millennium Development Goals: Global Policy Debates on Property Ownership and Security of Tenure*, *Global Urban Development Volume 2 Issue 1*, p.2.

²⁵ W. Fekade (2000), *Deficits of Formal Urban Land Management and Informal Responses under Rapid Urban Growth: An International Perspective*, *Habitat International* 24, p. 127-150.

²⁶ *Supra* note 22, p.12.

²⁷ Jan K. Brueckner and Harris Selod (2009), *A Theory of Urban Squatting and Land Tenure Formalization in Developing Countries*, *American Economic Journal: Economic Policy* vol.1, No.1, p.28.

the urban plan. Land invasion is the term used to describe illegal land occupation. According to Durand-Lasserve and Royston,²⁸

“There are three main types of informal settlements, the most common of which is unauthorized land development. This type of settlement occurs in peri-urban areas, where people primarily settle on private agricultural land or customary owned land. Even when their ownership is not formally recognized by the state, customary land owners are frequently the primary providers of land. In another type of informal settlement, the occupants have rented or purchased land from unregistered informal developers or rights holders in a generally legal transaction. The land is frequently deemed unsuitable for urban development, is in conflict with planning laws or regulations, or fails to meet infrastructure and service standards. Squatter settlements were identified as the third type of informal settlement. These are also found in peri-urban areas and are most common on publicly owned land, though they can also be found on privately owned land. They are generally the result of a gradual occupation or an organized "invasion" by large groups of people, and it is not free to live there, contrary to popular belief.”

In Ethiopia, three modes of informal settlements are identified in urban settings. These are urban land holding without the authorization of the relevant body, mixing the adjacent land with the lawful possession by expanding unlawfully and land held by farmers for residence and agriculture.²⁹

The modes of informal settlements in urban Ethiopia are characterized by illegally invading open spaces without gaining any permission from an appropriate body. These open spaces are from the outset traced by the government for green areas or any other purpose as per the local development plan. Mixing or merging an adjacent public land unlawfully with the privately possessed land is also a common practice in Addis Ababa. Moreover, the other is either by unlawful purchase of the whole possession or subdividing some portion of urban land from a lawful possessor.

²⁸Durand-Lasserve, A., & Royston, L. (2002). *Holding Their Ground: Secure Land Tenure for the Urban Poor in Developing Countries* (264 p). London: Earthscan Publications.

²⁹ Addis Ababa City Government Correction and Protection of Acquiring Urban Land without the Authorization of Appropriate Body, Directive No. 18/2014, Art.3.

2.2. Challenges and Impacts of Informal settlements

Informal settlements challenge not only developing countries but also developed countries. Durst and Wegmann explain³⁰:

“Informality in housing systems as a consequence of 'non-compliance' with existing codes and 'non-enforcement' by regulators; or of 'deregulation,' in which regulatory codes and processes are relaxed to allow for more market activity. Informality is widespread, but it is geographically uneven, largely hidden, and frequently interwoven within formal markets. Informal dwelling units are created within Vancouver's basements, in Sydney's backyards, and London's sheds, forming a shadow housing market hidden within the 'formal' (i.e. authorized, compliant) housing stock. The invisible and ambiguous nature of these informal housing practices presents significant challenges for researchers and policy makers alike. For example, informal arrangements provide access to housing that marginalized low-income earners are unable to secure in the formal sector; but tenures are often precarious and standards inadequate, raising health and safety risks.”

Jan Brueckner and Harris Selod identified three impacts of informal settlements.³¹ First, squatting is always associated with crowding, resulting in extremely high population densities. Second, squatted land is rarely developed or serviced, resulting in extremely limited and congested access to basic services for squatters. Third, while squatting is commonly associated with vacant public land, it also occurs on private property.

Because of the complex and rapidly changing nature of land tenure arrangements, peri-urban areas face unique land governance challenges.³² Achamyeleh defines some of the fundamental issues concerning land governance in Ethiopia's peri-urban areas as:³³

“Haphazard, sprawling residential development with insufficient social services and infrastructure; land acquisition for speculative purposes by the economic elite and politicians; illegal and extra-legal land subdivisions and transactions; illegal land

³⁰ Noah j. Durst and Jake Wegmann (2017), Informal Housing in the United States, International Journal of Urban and Regional Research, urban research publications limited, DOI:10.1111/1468-2427.12444, p. 282.

³¹ Supra note 27.

³² NKWAE Boipuso (2006), Conceptual Framework for Modelling and Analyzing Peri-urban Land Problems in Southern Africa. PhD Dissertation, University of New Brunswick.

³³ Achamyeleh Gashu Adam (2015), Urbanization and the Struggle for Land in the Peri-Urban Areas of Ethiopia, Urbanization Research Paper, University of California, Berkeley, http://cega.berkeley.edu/assets/miscellaneous_files/22_-ABCA_Urbanization-research_paper-ABCA.pdf, p.6.

occupations by squatters; unauthorized change of use from agricultural to residential land use; and unauthorized land transactions without knowledge of land administration authorities.”

Urban fringes or expansion areas are frequently associated with "low-standard housing, overcrowding, acute shortage of basic physical and social services and infrastructure, high environmental and health threat, noncompliance with planning regulations, insecurity of tenure, faulty street alignment, and unfavorable socioeconomic and living conditions."³⁴ Addis Ababa, which has 26 percent of the national urban population, is confronted with widening income disparities, deepening poverty, rising unemployment, a severe housing shortage, inadequate physical and social infrastructure, and the proliferation of slum and squatter settlements.³⁵ Slums are operationally defined as having insufficient access to safe water, sanitation, and other facilities, poor housing structural quality, overcrowding, and insecure residential status.³⁶

Though informal settlements offer at least some degree of promise to their residents, they lack basic infrastructure to support health and wellness, including clean water, adequate sewage systems, durable housing, and public spaces for commerce and recreation.³⁷ Water and improved sanitation and hygiene are the biggest planning and design concerns of informal settlements and adjacent formal settlements as well.³⁸ The major impacts of informal settlements are violating urban plans. The urban plans may provide that an area be delineated to a green area or for an industrial, commercial or institutional zone. The building height in the area may also be above a certain limit. Most of the time substandard houses are built for residence in informal settlements. Informal settlers at the beginning do not take precautions about roads, sewerage systems and beauty of the surrounding locality. Due to these, there will not be access roads to ambulances,

³⁴ Sietchiping, R. (2005, 4-6 April), Prospective Slum Policies: Conceptualization and Implementation of a Proposed Informal Settlement Growth Model, Paper Presented at the Third Urban Research Symposium on "Land Development, Urban Policy and Poverty Reduction", Brasilia, DF, Brazil.

³⁵ Supra Note 21.

³⁶ Supra Note 16, p.1.

³⁷ Vahapoğlu Lisa(2019), Strategies for Improving Informal Settlements. Global Health Equity Research in Translation. Eds. Frimpong Boamah, Kordas, and Raja. Community of Excellence in Global Health Equity.

³⁸ Ibid.

fire hydrant Lorries and for waste disposal. These result in health and environmental problems. Furthermore, urban land is being used inefficiently through informal settlements.³⁹

Consumption of land, loss of agricultural land and open space; decay of downtown areas; social segregation; poor access to services; high costs of public services; traffic congestion; increase in fuel consumption and air pollution; destruction of biotopes and fragmentation of ecosystems are all well-known negative effects of poor urban management.⁴⁰ When building infrastructure such as water and sewage pipes, electricity, and waste removal systems, it will be nearly impossible to reach all of the plots.

Informal settlements are human settlements in their respective countries that impede economic development because they do not meet legal recognition requirements and are built without following formal procedures of legal ownership, transfer of ownership, as well as construction and urban planning regulations. Extensive informal construction in large peripheral zones and corridors has resulted in inefficient and unplanned zone expansion around the city's outskirts, usurpation of agricultural and public land, and massive problems in developing adequate social, road, and utility infrastructure, as well as maintaining and rehabilitating the environment.⁴¹ Sewerage systems are a major challenge in these settlements as they need prior planning and construction before settlement.

2.3. Abuse of Scarce Urban Land Resource

Although it is frequently assumed incorrectly those informal settlers devote very little or no resources to housing, that is not the case. Individuals living in informal settlements spend more economic resources on housing than those in the formal housing market, once costs are adjusted for location, lack of infrastructure and connectivity, cost of basic needs such as water, and land price, which is frequently as expensive as in well-established neighborhoods.⁴² Another common misconception is that informal settlements are only inhabited by the poor. Several studies have demonstrated that this is not the case.⁴³ The socioeconomic composition of older and more

³⁹ Nesru H. Koroso et al. (2020), Urban Land Use Efficiency in Ethiopia: An Assessment of Urban Land Use Sustainability in Addis Ababa, Land Use Policy vol. 99, p.10, <https://doi.org/10.1016/j.landusepol.2020.105081>.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² López, O.S., Bartolomei, R.S., & Lamba-Nieves, D. (2019), Urban Informality: International Trends and Policies to Address Land Tenure and Informal Settlements.

⁴³ Ibid.

consolidated inner-city slums is more diverse than that of formal neighborhoods.⁴⁴ In addition, as several authors have noted, the middle and upper classes can engage in informal development when they occupy desirable land in protected natural areas or outside of land use plans.⁴⁵ Urban informality violates state ownership of land and is most commonly seen when a person violates or illegally occupies public spaces.⁴⁶ Most of these practices involve physically occupying a state's land.⁴⁷ The situation in Ethiopia reveals illegal occupation of urban land not only by lower income earning individuals but also by those land speculators and land grabbers for profit in selling several plots of land.

Informal development creates additional strain on land governance, and efforts to regularize settlements should aim to incorporate these sites into land management systems to allow for proper function, integration and effective management of rights, restrictions, and responsibilities.⁴⁸ Land regularization is the process by which the government intervenes in illegally occupied lands in order to legally recognize property titles or other rights to occupy land, as well as to provide urban infrastructure or services.⁴⁹ There are various approaches to land regularization, but the majority of them address common challenges such as a lack of urban serviced land, insufficient resources to implement large-scale relocation schemes, and community opposition to relocation.⁵⁰ Urban land is scarce and very much costly whose value increases from time to time so that it should be administered, used efficiently than, and regularizing substandard sprawling housing constructions.

2.4. Responses to Informal Settlements

For decades, governments in low and middle-income countries have responded to informal settlements differently, including denying their existence, expressing benign indifference, evicting residents, and completely or partially demolishing settlements.⁵¹ Eviction and demolition face criticism believing that they do not address the cultural and material realities that drive the

⁴⁴ Ibid.

⁴⁵ Ananya Roy & Nezar AlSayyad editions (2004), *Urban Informality: Transnational Perspectives from the Middle East, Latin America, and South Asia*.

⁴⁶ Supra Note 42.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Calderón Cockburn (1998), *The Mystery of Credit*, Lincoln Institute of Land Policy.

⁵⁰ Supra Note 42.

⁵¹ Supra Note 37.

formation and expansion of informal settlements.⁵² This trend has prompted increased interest in improving informal settlements and attempting to formalize land tenure for residents of these communities.⁵³

In the context of rapid urban growth, unplanned development schemes will benefit the urban poor by providing easy access to urban land and relieving the poor of sky-high land costs once the settlement is integrated into the urban structure.⁵⁴ Most governments have gradually tolerated existing squatter housing, while attempting to discourage further squatting, unwilling to engage in mass evictions.⁵⁵ Pranita Shrestha, et al. pointed out that:⁵⁶

“Informal settlements serve the ‘formal city’ by accommodating the low paid workers who play a crucial role in the urban economy. There are no easy policy ‘solutions’ to a complex and multifaceted phenomenon such as informal housing practices. Many suggest avenues that could be followed by policy makers seeking either to address structural barriers to ‘formal’ housing markets or to ameliorate the risks associated with insecure or inadequate accommodation. We also find within the collection of papers a concern to avoid regulatory responses that may create more harm either by emphasizing illegality and seeking to eradicate unpermitted rental units or by weakening regulatory standards designed to ensure basic levels of housing quality. Forms of state sanctioned informality such as the deregulation of planning and zoning rules may reduce housing standards without necessarily benefiting lower income occupants. Structural solutions to housing need for instance, more social and affordable housing for low income renters should be a primary response to informal or ‘illegal’ housing.”

Regularization and titling do not always imply long-term tenure security.⁵⁷ During a crisis, families tend to sell their property to higher-income residents (gentrification) and relocate to informal settlements in other parts of the city.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Baróss, P. e., & van der Linden, J. e. (1990), Transformation of Land supply systems in third world cities. Aldershot etc.: Avebury Gower.

⁵⁵ Supra note 27.

⁵⁶ Pranita Shrestha, Nicole Gurrán & Sophia Maalsen (2021) Informal housing practices, International Journal of Housing Policy, Vol.21, No.2, pp.157-168, DOI: 10.1080/19491247.2021.1893982.

⁵⁷ Raquel Ludermir and Maria Luisa Alvarado (2017), Urban Land Conflicts and Evictions in Latin America and the Caribbean.

International organizations, governments, researchers, and a wide range of other stakeholders have been working on strategies to combat informal settlements.⁵⁸ Upgrades, resettlement, sites and services, and guided land development are all examples of interventions.⁵⁹ All approaches have financial ramifications that call their viability into question.⁶⁰ Officials were concerned that improving informal settlements would be interpreted as condoning illegal activity and would encourage the growth of more informal areas.⁶¹ It is also clear that no one can totally prevent the spread of informal settlements.⁶² The majority of interventions and urban policies aimed at informal settlements have been reactive, costly, and fall far short of controlling further expansion and densification.⁶³ Understanding the driving forces behind the scenes and predicting future likely areas of informal settlement growth would allow urban planners and policymakers to be proactive and address the issue more effectively. According to Sliuzas et al., "proactive interventions aimed at preventing the formation of informal settlements are equated with the formal model of urban development."⁶⁴ To that end, modeling the growth of informal settlements strengthens the planning process and allows for more informed decisions.

It is important to create guidelines for the effective implementation of land protection regulations and best practices by informing the public about the consequences of unauthorized land use, ensuring that regulations are consistently implemented by local governments, and monitoring. Of course, not all informal settlements may be legalized because they are in a strategic location, such as a main road, infrastructure corridor, or riverbank, or because they are prone to flooding or landslide. Informal development violates the law in a variety of ways, and as such, it cannot be tolerated unless it is stopped, prevented, and penalized; however, legalizing such developments may be viewed as a reward.

2.5. Alternative Forms of Tenure

Housing market discussions in the Global South frequently begin with the assumption that there are parallel markets for formal and informal forms of tenure. While the majority of the emphasis

⁵⁸ Ricardas Vytautas Sliuzas (2004), *Managing informal settlements: a study using geo - information in Dar es Salaam, Tanzania*. ITC, Enschede.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Manal El-Batran and Christian Arandel (1998), *A shelter of their own: informal settlement expansion in Greater Cairo and government responses*, *Environment and Urbanization*, Vol. 10, No. 1, p. 229.

⁶² Sietchiping (2005), *supra* note 34.

⁶³ *Supra* note 61.

⁶⁴ *Supra* note 58.

over the last few decades has been on formalization and titling as a step toward single-family homeownership, experts have recently begun to consider other forms of legal tenure that are not limited to renting or homeownership.⁶⁵

The growing interest in these alternative forms of tenure is a response to the institutional challenges of providing housing and advancing homeownership across all demographics,⁶⁶ acceptance of progressive ideas that regard housing as a human right, as well as the need to find solutions to the displacement and gentrification that frequently accompany regularization.⁶⁷ Alternative forms of tenure include housing cooperatives, land banks, community land trusts, joint ownership, and new forms of partnerships between the public, private, and nonprofit sectors to build affordable housing.⁶⁸ Alternative forms of tenure may have significant benefits in the Global South, but little research has been conducted to assess their effectiveness.⁶⁹ Lease-purchase programs allow participants to choose a home, and a finance agency purchases the home on their behalf, acting as the initial owner, mortgagor, and property manager for a three-year period.⁷⁰ An example for this may be the function of Gojo Bridge Housing in Ethiopia.⁷¹

In contrast to informal urbanization processes, Ethiopia's Integrated Housing Development program has reduced the number of cases of illegal development on land in Addis Ababa and contributed to progress toward an improved housing market by legalizing more housing supply and increasing the number of official property titles in circulation.⁷² Titling and regularization efforts across Latin America assume property rights to enable economic advancement, despite research showing that these types of projects have mixed results. In many cases,

⁶⁵ Supra Note 42.

⁶⁶ McTarnaghan, S., Martin, C., Srin, T., Collazos, J., Literature Review of Housing in Latin America and the Caribbean, p.24, Urban Institute and Habitat for Humanity(2016).

⁶⁷ Supra Note 42.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Addis Zemen Newspaper, July 31, 2021, P.18. Gojo Bridge Housing is promoting itself gaining permit from the government to construct houses on large tract legal land holdings of individuals who are not able to construct durable houses by themselves upon securing their consent and interconnecting with banks to deliver 3 bedrooms to those land holders and others who payed initially 350,000.00 birr, 650,000.00 for construction by entering an agreement with a bank.

⁷² UN-HABITAT (2010), the Ethiopian Case of Condominium Housing: The Integrated Housing Development Programme, p.39. United Nations Human Settlements Programme: Nairobi. HS Number: HS/023/11E, ISBN Number (Series): 978-92-1-132033-6 ISBN Number (Volume): 978-92-1-132326-9.

regularization increases informality and does not necessarily increase credit access, whereas legal tenure is associated with social and human capital improvements.⁷³

2.6. Chapter summary

Informal settlements are found in every country of the world despite, differences in their degree of coverage. The rapid Urbanization rate in Ethiopian cities proliferated informal settlements. Informal settlements in Ethiopia are identified in the form of illegal land occupation, unlawful expansion to include an adjacent land to a legal possession, and illegal construction. Informal settlement in these modes exerts a problem on the fair distribution of wealth and on the adherence to the rule of law. In addition, informal settlements do not respect building codes and urban plans that creates multifaceted problems to urban residents. The problems are associated with inefficient use of scarce urban land, infrastructure and service provision, health, environmental, social and economic problems.

Responses in regulating informal settlements are different including upgrading and regularization, relocation, eradication or demolition. Many criticize demolition but there are also alternative forms of tenure to formal and informal types of tenure. The alternatives are housing cooperatives, condominium housing and others that can help to address the problem of housing through public private partnership.

⁷³ Supra Note 42.

Chapter Three: Laws on Regularization of Informal Settlements in Urban Ethiopia

3.1. Proclamations and Regulations Related to Urban Land

Urban land in Ethiopia is only held by a leasehold tenure system with the exception of old possessions if continued being held by the old possessor or transferred only through succession until they are converted into leasehold by the determination of the Council of Ministers based on a thorough analysis that the Ministry of Urban Development will submit.⁷⁴ The current Urban Land Lease Proclamation declared the full application of lease holding in any urban center within five years of the effective date.⁷⁵ Without a permission of the appropriate authority, no one is allowed to enclose and use any plot of land that is near his or her legitimately possessed land.⁷⁶ The possessions that have been determined to be acceptable in accordance with urban plans and parceling standards following the regulations to be issued by regions and city administrations shall be managed by lease holding in order to regularize possessions held without the authorization of the appropriate body.⁷⁷ Regions and city administrations must complete the regularization process within only four years of the date this Proclamation enters into force.⁷⁸

However, an urban land is held by lease if its use complies with the urban plan guidelines or, in the absence of such guidelines, the rules established by the region or the city administration.⁷⁹ The same Proclamation gives the appropriate body a power to clear an illegally occupied urban land by merely serving a written notice of seven working days to the occupant in person or by attaching it to the property located on the land, without the need to issue a clearance and payment of compensation.⁸⁰ Here, it is important to identify the difference between the meaning of written notice and clearing order where clearing order contains the date by which the land must be vacated, the sum to be paid in compensation, and the size and location of the replacement plot of

⁷⁴ Supra Note 19, Art. 6(3).

⁷⁵ Id. Art. 5(1), (4)

⁷⁶ Id. Art. 5(2).

⁷⁷ Id. Art. 6(4).

⁷⁸ Id. Art. 6(5).

⁷⁹ Id. Art. 7(1).

⁸⁰ Id. Art. 26(4).

land to be used.⁸¹ Whereas, written notice is to mean warning the occupant or settler to remove properties attached and evacuate the land within 7 days without claiming compensation or substitute land. That is why, the same Proclamation immunizes the appropriate body from taking a responsibility for any property located on an urban plot that was illegally held while clearing the land through forced eviction.⁸² Criminal liabilities with a rigorous imprisonment from 7 to 15 years and with a fine from Birr 40,000 up to Birr 200,000 are included to tackle both illegal urban landholders and those who permit as such to procure undue advantage by contravening the Proclamation.⁸³

Only neighborhoods with a local development plan and where the requirements for regularizing illegal holdings have been met are eligible for landholding adjudication.⁸⁴ Unless proven otherwise, any piece of land without a use right is presumed to belong to the government, in which case the body in charge of managing or developing urban land may apply for registration in its own name.⁸⁵ Any landholding held by a person that transcends the lawful parcel size cannot be the subject of a landholding right adjudication.⁸⁶

To create a legal framework that will encourage the development of well-planned urban centers⁸⁷ being the aim of the Urban Plan Proclamation follows basic principles like ensuring sustainable development while also protecting the community and the environment.⁸⁸ An urban plan comprising city wide structure plan,⁸⁹ which indicates principal land use classes and housing development, and local development plan that states zoning of use type, building height and density; housing typology and neighborhood organization; green areas, open spaces, water bodies, and places that might be utilized for common benefits.⁹⁰ If construction activities conflict with the structure or local development plans, every urban administration has a power to inspect

⁸¹ Id. Art. 27

⁸² Id. Art. 31(5).

⁸³ Id. Art. 35(1) (a, b).

⁸⁴ Urban Landholding Registration Proclamation No. 818/2014, 20th year, No 25, 21st February 2014, Art.10 (10).

⁸⁵ Id. Art. 14(4).

⁸⁶ Id. Art. 14(6).

⁸⁷ Urban Planning Proclamation No. 574/2008, 14th year, No 29, 16th May 2008, Art. 4.

⁸⁸ Id. Art.5 (7, 10).

⁸⁹ Id. Art. 8(1), 9(2) (b, c).

⁹⁰ Id. Art. 8(2), 11(3) (a, d, f).

them and stop them.⁹¹If a development activity is conducted without a prior development authorization, chartered cities or urban administrations must take appropriate action.⁹²

In addition to criminal liabilities of illegal land dealings as per the leaseholding proclamation, there are instances of the execution of fines imposed by the Addis Ababa city government's executive bodies for land related petty offenses.⁹³Addis Ababa city Code Enforcement Authority is in charge of code enforcement and land related illegal activity prevention and control, such as preventing illegal construction, illegal occupation of land, land grabbing, and illegally expansion of landholdings. It also supervises these activities and takes or causes legal action to be taken on the illegal connection and release of toilet sewage and liquid wastes into flood drainage lines, the placement of solid waste in unapproved locations, and the illegal connection and release of solid waste.⁹⁴Its detail functions in relation to preventing illegal urban land occupation and construction are provided by a regulation.⁹⁵

The Code Enforcement Authority fines Birr 5000 on persons for possessing government land without permission from the appropriate government organ; Birr 3000 for expanding government land into possession in addition to legally entitled plot; Birr 7500 for illegal construction by possessing government land without permission or expanding legal possession without permission; and Birr 7500 for undertaking any kind of construction on legally possessed land without permission.⁹⁶The Addis Ababa City Justice Bureau enforces the payment of fines imposed by the city's executive branches for code violations.⁹⁷The Urban Beautification and Green Development Bureau identifies the green areas specified in the plan; for those green areas with landholding evidence, it requests the issuance of a certificate of holding title by registering

⁹¹*Id. Art. 20(1).*

⁹² *Id. Art. 25.*

⁹³ Addis Ababa City Government Revised Charter Proclamation No. 361/2003, 9th year, No 86, 24th July 2003, Art. 41(2) (d)).

⁹⁴The Establishment of The Executive Organs of The Addis Ababa City Government Proclamation No. 74/2021, Addis Negari Gazeta -- No. 32, 29th day of September, 2021, Art.47(1,3,10). Articles.11(32), 12(3), 21(1) and 21(14) show that the Code Enforcement Authority is established as an executive organ of the Addis Ababa city government whose accountability rests with the Peace and Security Administration Bureau, which functions to coordinate efforts to stop crimes, code violations, and other illegal activities; prompt the imposition of sanctions.

⁹⁵ Prevention and Control of Code Violation and Organizational Structure and Working Procedure of Office of Code Enforcement of Addis Ababa City Government Regulation No. 54/2012, 5th Year No.54, 1st October 2012, Art.7(10), Art.11(4), 12(1), 14(3,4). The Authority is entrusted to cause the collection of revenue generated from petty offense fines in accordance with the City Government's finance law (Arts.7(18), 11(5),17(2,5)).

⁹⁶Penalty Schedule 1 of the regulation.

⁹⁷ *Id. Art. 19(1,2)*

it in its name with the relevant organ.⁹⁸ The Beautification Bureau delineates and protects watersheds and green spaces, halts development activities that do not have a plan or design around them, and, if necessary, removes them in accordance with the law.⁹⁹ It establishes public parks and recreation areas in accordance with the city's structural plan.¹⁰⁰ It also causes the development of an open plot of land in a village by its residents and other stakeholders directly participating in such development, in accordance with the local development plan; it also takes care of, protects, or causes the protection of the same.¹⁰¹

The Plan and Development Commission of Addis Ababa City, which develops the city's structural and local development plans, pursues or encourages legal action against anyone who violates the city plan.¹⁰² Based on the structural plan, the Farmers and Urban Farming Development Commission collaborates with relevant organizations to prepare designated areas for market centers for livestock, crops, vegetables, and fruits, as well as urban agriculture, and to develop those areas in a modern manner.¹⁰³ It collaborates with the relevant organ to measure the size of farmers' landholdings in order to provide them with a land holding assurance certificate and an exploitation permit.¹⁰⁴ The Construction Permit and Regulatory Authority of Addis Ababa City Government provides written information about plan conformity in accordance with the city's structural plan; when there is a legal reason for not issuing the permit, the authority notifies the customer in writing.¹⁰⁵ It issues permits for new constructions, construction improvements, renovations of public or private buildings or infrastructure, as well as permits for building demolition.¹⁰⁶ It assesses and approves the design of a building in accordance with the city's structural plan, the law, and building standards.¹⁰⁷ Land Holdings Registration and Information Agency ensures and controls the proper delivery of registration, cancellation, renewal, rectification, and other land tenure services of rights, restrictions, and responsibility information

⁹⁸Supra Note 93, Art. 35(1).

⁹⁹ Id. Art. 35(2).

¹⁰⁰ Id. Art. 35(3).

¹⁰¹ Id. Art. 35(13).

¹⁰² Id. Art. 36(2, 3, 9).

¹⁰³ Id. Art. 39(7).

¹⁰⁴ Id. Art. 39(13).

¹⁰⁵ Id. Art. 43(15).

¹⁰⁶ Id. Art. 43(16).

¹⁰⁷ Art. Art. 43(17).

concerning land tenure; and ensures and controls the issuance of land tenure rights assurance certificate.¹⁰⁸

The Land Development and Administration Bureau is the primary organ in charge of administering land in the city of Addis Ababa. It registers developed lands that have not been transferred to anyone, prepared and unprepared spaces, as well as vacant lands or holdings held by the bank, maintains pertinent information in digital and plan format, erects an identification board with the service type and necessary description of the area, and transfers the detailed information to the Code Enforcement Authority to cooperate in protecting the areas from illegal occupation.¹⁰⁹ It issues landholding title certificates for unauthorized holdings in accordance with the law's requirements, as well as to those who have been granted permission by the city government; it also keeps track of their records.¹¹⁰

The City Government of Addis Ababa has amended its urban land regularization regulation and directives. The regulation declares that land possession obtained without the authorization of an appropriate body and constructed on it prior to April 2005 shall be accepted if the building exists on the air map taken in April 2005; if it does not contradict with the urban plan and parceling adjustment; if it is not visible on the 2005 map due to various causes, document presented about the existence of house prior to April 2005 by government institution and approval.¹¹¹ Even if the violation is related to the standard area, and if this illegal land tenure and building are possessed by more than one person in one compound, or even if they are not in one compound and agree to develop in the parceling adjustment of the surrounding, the land possession is accepted for granting title deed certification.¹¹² If the possession is by farmers or old possessors, 500 meter square for themselves and 150 meter square for their children if they possess, within this boundary are granted title only for home purposes by old possession or rent system without any penalty.¹¹³ If the possession violates plan rules, it should be specified as a title

¹⁰⁸ Id. Art. 52(1,2)

¹⁰⁹ Id. Art. 24(10).

¹¹⁰ Id. Art.24 (26). Art. 24(12) of this proclamation also states that the land administration bureau registers, protects, and issues a landholding title deed certificate to landholdings and immovable property until transferred to the landholding registration and information agency.

¹¹¹ Regulation No. 65/2014 for Correction and Protection of Acquiring Urban Land without the Authorization of Appropriate Body, 5th year No. 65, 17th April 2014, Art. 4 (1-3).

¹¹² Id. Art. 5(3).

¹¹³ Id. Art. 5(5)).

limitation.¹¹⁴ Despite the fact that the house appears on a line map taken in 2005 and contradicts the urban plan, the owner is required to remove the structure and evacuate at his own expense.¹¹⁵ If the land taken away is for residential use, the substitute land in accordance with the minimum home area specified in the urban plan is given.¹¹⁶

Except for residential service, if the released land was possessed for the service of large social institutions such as schools, health institutions, manufacturing industries, and other similar institutions, a substituted land equal to the allowed land size based on parceling is given.¹¹⁷ Without the presentation of a development plan, a substituted 75 square meter land shall be provided for the possessions of other organizations.¹¹⁸ Accepted land possession through the correction process is governed by the lease system, with payment of the lease benchmark price of the time if the area is less than 75 square meters and payment of the auction value of the time if the area is greater than 75 square meters.¹¹⁹

3.2. Urban Land Directives of Regularization

Addis Ababa City Administration regulates informal settlement regularization using two consecutive directives. The first one is directive no. 17/2014 issued for the service delivery of possessions without a valid title deentered in the register of immovable. As per Art. 2(10), and 3 of this directive, it regulates possessions up to April 1996. This Directive aims to respond urban land use and ownership of urban housing questions rolling for years in Addis Ababa.¹²⁰ To decide and grant urban landholding right the pre-requisites to be fulfilled are a house or house and fence before May 1996 should be able to be seen from the Sofratop map or must be verified from a Nortech map or GIS.¹²¹ Where a house is not visible on Sofratop or Nortech (aerial map) or GIS data, a document stating that possession was given to them by a governmental institution before May 1996¹²², such as an old title deed or notebook, or a construction or renewal permit issued before May 1996, or a document where electricity/water/telephone is connected to the

¹¹⁴ Ibid.

¹¹⁵ Id. Art. 6(1).

¹¹⁶ Id. Art. 6(2).

¹¹⁷ Id. Art. 6(3).

¹¹⁸ Ibid.

¹¹⁹ Id. Art. 7(1-3).

¹²⁰ Addis Ababa City Government Directive no. 17/2014 issued for the service delivery of possessions without a valid title deed, Art.4.

¹²¹ Id. Art. 5.1.

¹²² Id. Art.5.2

house number, or if there is a document from the governing body that was in place at the time.¹²³ When there is no clear information about whether the possession belongs to the title deed requester or not, it must be verified from the relevant government institutions as to whom the house and the possession belongs or whether the house does not belong to the government.¹²⁴ If one got the house by purchase, gift, or inheritance, a document proving one of these or written evidence recorded in court or; if the house or land is obtained from the landlord, the contract in which the possession was transferred at the time or the receipt of tax/land rent/ paid to the landlord or; if houses confiscated by proclamation no. 47/1975 were returned to the owners when the document of return is verified by the Privatization Agency and the evidence is submitted or; infrastructure service (water/electricity/telephone) document in their name or; if proclamation no.47/1975 was approved before the house plan or house work at least one year in which the building permit given by the relevant body or tax has been applied to the land and the house is in his name if he submits a receipt; when the property information is collected in the field, if it is proved that there is no claim or a border dispute on the property or the house, when these evidences listed above are confirmed, the title deed map will be prepared and issued in the name of the person requesting regularization.¹²⁵

In terms of the city plan or local development plan, non-existence of conflict to green region, included in road design, buffer region should be investigated and assured. In the case of conflict with the city or local development plan, since a title deed of possession cannot be prepared for the conflicting possessions, expropriation is sought for the benefit of the public purpose in return for compensation for property settled on the land to be released and relocation to a replacement land.¹²⁶

Landholdings only having a book prior to Proclamation 47/1975, the size of the area up to 500 square meters that are reserved for residential use¹²⁷ and up to 3000 square meters for Commercial use¹²⁸ established on the certificate of ownership is allowed to be regularized and

¹²³ Id. Art.5.2, 5.4.

¹²⁴ Id. Art.5.3.

¹²⁵ Id. Art.5.6.

¹²⁶ Id. Art.5.5.

¹²⁷ Id. Art.6.1.

¹²⁸ Id. Art.11.2.2.

administered in the old possession. If there appears a difference between the size of the area based on the accepted data and the size of the area on the ground, the minimum area size will be acceptable.¹²⁹ If it is more than what is found on the information obtained from the previous title deed, the excess is regarded as held without the permission of the relevant body.¹³⁰ In such a case, the excess beyond 500 square meters for residential use¹³¹ and for the excess beyond 3000 square meters for commercial use¹³² is administered by lease holding if it is developable independently and the previous possessor wishes to enter into a lease contract based on the area current initial lease price. If the residential holding prior to proclamation no. 47/1975 does not have both a title deed and the book, then the possession is verified by Sofratop map, Nortek map or GIS and other supportive documents in addition to the requirements under Article 5 where if it happens that the holding up to 500 square meters are allowed to be held as an old possession. The excess beyond 500 square meters for residence will be administered by lease and if the excess is able to be developed independently and the previous holder wishes to hold it through lease he/she can enter into a lease contract paying the lease markup price.¹³³

According to the directives issued to regularize and protect urban areas from being illegally held, it will be checked according to the manner in which the possessions that have been expanded are dealt with its approval by parceling standards; the expanded plot is approved to be included with the lawful possession if it fits with the urban plan and parceling standard of the area.¹³⁴

Holdings from the issuance of proclamation No.47/1975 up to May 1996, in addition to fulfilling the criteria mentioned under Article 5, will be regularized through paying annual lease price birr 3 per square meter up to 500 square meters without penalty by submitting supportive documents showing the size of holding.¹³⁵ Those who cannot present supportive documents in this regard should pay penalty for the size above 50 square meters.¹³⁶ The excess beyond 500 square meters for residence will be administered by lease and if the excess is able to be developed

¹²⁹Id. Art. 6.2.

¹³⁰Id. Art. 6.3.

¹³¹ Id. 6.4.

¹³²Id. Art.11.2.3.

¹³³Id. Art. 9.2.

¹³⁴Id. Art.6.4.

¹³⁵Id. Art.10.

¹³⁶Id. Art. 10.2.

independently and the previous holder wishes to hold it through lease he/she can enter into a lease contract paying the lease markup price.¹³⁷

If the city plan does not allow development in this respect, the possession will be expropriated upon payment of compensation for properties on the land and relocate upon granting a substitute land.¹³⁸

To sum up, regularization of possessions without valid title deed has detail processes dealt by directive no.17/2014. Here the main point is, most of the land use, which conflicts with the urban plan, is vulnerable to expropriation upon payment of compensation for properties on the land and granting a substitute land.

The second regularization tool of Addis Ababa city urban land holding enacted following the Urban Land Lease Holding Proclamation is directive No.18/2014 which enables to implement Regulation No. 65/2014 for Correction and Protection of Acquiring Urban Land without the Authorization of Appropriate Body. This directive has a similar nomenclature with this mentioned regulation by which it defines possessions of legitimate, illegitimate and occupation of expanded land beyond the legitimate land holdings in Addis Ababa.¹³⁹ The scope of applying this directive is limited to land holdings up to April 2005 where an urban area is occupied without the permission of the appropriate body, to unlawfully extended possessions and to holdings held by farmers for residential purposes.¹⁴⁰

Possession held without the permission of the appropriate body is eligible for regularization if the house can be seen on the line map created in 2005 and it is confirmed that it is providing services and the service of the house does not conflict with the city plan, if a document issued by a government institution prior to April 2005 is submitted about the house for farmers' holdings that are not visible on the line map created in 2005, or if the wereda administration from the area presented proof from investigating other local residents that the individual built and lived in a house prior to 2005, where a house and yard shown on the line map taken in 2005 were

¹³⁷Id. Art. 10.1.3.

¹³⁸ Id. Arts. 10.4, 12.2, 13.4.

¹³⁹ Directive No. 18/2014 for Correction and Protection of Acquiring Urban Land without the Authorization of Appropriate Body, Art. 2(6, 7, 8).

¹⁴⁰Id. Art. 3.

subdivided and transferred, and a house is now built on it, and all of this is compatible with the parceling modification.¹⁴¹

The unlawfully expanded possession is regularized upon the determination of land area size expressed in the directive when it is proved that the unlawfully expanded land's house or fence is seen on the line map taken in 2005 and if the one who expands currently holds the expanded parcel and is compatible with the urban plan and parceling standard.¹⁴² Title deed is prepared and submitted to houses built on lands held by expansion or without the authorization of the land administration organ if they do not contravene urban plans and parceling plans upon entering into lease contract with initial lease price.¹⁴³ Whereas, if they are not acceptable in accordance with the urban plan and local parceling plan, the organized name list of illegal land holders' is sent to the land bank and transfer office for granting them substitute or replacement land upon refining the information of illegal holdings though they are verified that they were held before 2005.¹⁴⁴

However, such holdings may be readjusted and regularized with providing a title deed if several scattered holders in a certain area but not in one compound are willing to develop the land as one holding keeping their own minimum area size starting from 75 square meters up to 500 square meters when there is a residential building beyond the minimum area size and starting from 75 square meters up to the area covered by the building and by the acceptable parcel size for institutions.¹⁴⁵ The illegal holder is bound to clear the building and submit the area above the acceptable parcel to the land bank and transfer office.¹⁴⁶

Possessions that are held without the permission of the appropriate organ or unlawfully expanded adjacent plots after May 2005 are fully demolished and the cleared land is deposited into a land bank.¹⁴⁷

¹⁴¹Id. Arts. 5.1.1-5.1.5.

¹⁴²Id. Arts. 5.2.1- 5.1.4.

¹⁴³Id. Arts. 6.1-6.3.

¹⁴⁴Id. Art.6.4.

¹⁴⁵Id. Arts.6.5, 6.6.

¹⁴⁶Id. Art. 6.7.

¹⁴⁷Id. Art. 6(9).

A committee of experts is established in each wereda and assigned to accept and assess regularization questions forwarded by service seekers. The committee, being responsible to the district Chief Executive, following ethical standards, receive application of service seekers in the zones where regularization work is carried out. They organize their list of service seekers who fill in and sign the regularization request form.¹⁴⁸ It will be accepted by having their names entered in a register prepared for this purpose. If there are different documents provided by the service seekers, the committee confirms by authenticating copies with the original and organizes the information along with the regularization request form. Documents that must be submitted by the service seeker and organized in the archive must include a copy of the renewed ID showing the identity of the applicant; if married, spouse's ID or marriage certificate; the applicant's name or spouse's name in the city administration region with a statement that there is no possession of land without the permission of the relevant body by entering into a contract of voluntary obligation to leave the additional house and possession and be responsible by law if found by an inspection afterwards and if the property is acquired by inheritance, proof of inheritance certified by the court must be provided by the owner and archives are worth organizing.¹⁴⁹

Documents that show the origin of the possession, such as contract documents of electricity or water or telephone line entrance, tax receipt and other evidences submitted by the applicant will be arranged with the above-mentioned evidence.¹⁵⁰

The members of the committee are responsible to consider and accommodate the evidence provided by the person possessing a house, by refining whether it was built before April 2005 from the local residents or in different ways; or filter that the applicant is administering the house and ensures that it is free from any neighboring claims. In general, by confirming who is the possessor of the house, the details will be announced in the wereda notice board of the area where the board and the house is located.

The committee organizes a copy of the notice into archives. Details of owners who have been given a decision (owner's name, spouse's name, address etc.) and the minutes of the committee meeting approved by the wereda Chief Executive is sent to the City Provisional Service Project

¹⁴⁸Id. Art. 8.1.1.

¹⁴⁹ Id. Art. 8.1.2 and the following.

¹⁵⁰Id. Arts. 8.1.2 - 8.1.4.

Office by mail. The remaining copy of the approved decision's minute with list of owners is organized in archives kept by the wereda administration.¹⁵¹

An approved plan for parceling from the City Planning Institute for the area where regularization is requested will be provided to a Possession Service Project Desk in hard and softcopy for the regularization of landholders without title deeds. The Project Desk will be shipped with the name of each holder along with the size, area and dimensions. If the possession has more than one parcel in the process of parceling regularization of plots without registered or documents of title, the holder chooses only one as the desk gives only one service and the land bank and transfer office of the city will take over the remaining possession being checked and sent to it indicated in the plan format.¹⁵² When the land bank office confirms by letter that it has banked the plot, a title deed map confirming possession title deed is provided for the possession; similarly, regularization will be provided for only one possession chosen by the illegal holder or his spouse over possession without permission from the appropriate body in the city administration region, and the rest will be released.¹⁵³ The map will be prepared in the name of the illegal holder filling all basic and important information about the holder and the parcel and a copy is sent to the sub city land bank and transfer office for the signing of lease contract. After the signing of lease contract, based on initial land lease price for land possessions up to 75 square meters and lease markup price for greater than 75 square meters, and returned to the sub city project office upon payment, then the title deed map is signed and given to the possessor by the head of possessions without documents after being recorded in a permanent register.¹⁵⁴

If the house is visible on the line map taken in 2005 and contradicts with the city plan, the illegal possessor will be asked to remove the property from the site at his own expense.¹⁵⁵ If the space vacated here was reserved for residential use, the minimum area set by the city plan for housing is given to him as a replacement or substitute for the former possession.¹⁵⁶

¹⁵¹ Id. Art. 8(3).

¹⁵² Id. Art. 8.3.1 and the following.

¹⁵³ Id. Arts. 8.3.1-8.3.4.

¹⁵⁴ Id. Arts. 9.1, 9.2.

¹⁵⁵ Id. Art. 10.1.

¹⁵⁶ Id. Art. 10.2.

If the space released were occupied for non-residential purposes or provision of social services by educational and health institutions, manufacturing industry and similar large institutions, to continue the development, an enabling development plan /project proposal/ has to be submitted and now the size of the landing area where the construction situated on after being measured and verified by the desk, it will be sent to them for a relocation.¹⁵⁷ Whereas, 75 square meters is given while relocating other institutions than the above-mentioned without the need to submit development plan.

To regularize illegally expanded holdings adjacent to a lawful possession, it should be confirmed that it is captured by the person currently requesting regularization of illegally extended possession; it is confirmed by the field expert that illegally extended possession of the house or fence is visible on the line map taken in 2005; it is verified by an expert that it does not conflict with the plans, basically structural and local development plan, confirming that it is consistent with the approved parceling design and then a possession certifying map or title deed will be generated after payment of penalty.¹⁵⁸

The difference between an area of the previous map and the field measurement up to 14 percent of the map for holdings up to 250 square meters; up to 10 percent from 251 to 500 square meters; up to 7 percent for holdings ranging from 501 to 1500 square meters; up to 5 percent for holdings ranging from 1501 to 2500 square meters; 3 percent differences for holdings of 2501 to 3500 square meters and above are acceptable so that a corrected map, including the area obtained by measurement without the need to adjust the parcel, is prepared by Possession Administration Desk.¹⁵⁹

If the previously mapped possession is managed by the old possession, the additional area will be transferred without penalty to the old possession and the title map will be corrected; if the previously mapped possession is managed in whole or in part by lease hold, it is considered to be occupied at the same time and by sending a cover letter along with a plan format to be submitted with possession for the difference in area to the land bank and transfer office of the sub city and

¹⁵⁷Id. Art. 10.3.

¹⁵⁸Id. Art. 8(2).

¹⁵⁹Id. Art. 15.2.

signing a lease contract, after making payment based on the previous lease price and the verification map will be corrected.¹⁶⁰The expanded possession held beyond the lawful possession is cut and entered into the land bank if it can be developed independently.

If a farmer's house and possession or house is visible in the 2005 line map, presents a confirmation of his status of being indigenous farmer from the wereda administration he lives, land use tax receipt of 2 or more years, upon confirming by measurement of their possession they use, they are given title deed map of old possession for residence up to 500 square meters without penalty.¹⁶¹Whereas, upon confirmation of the wereda administration as to the possession of a residential house in the name of the farmer's descendant or his/her spouse and the absence of a possession in the city other than the house built on the possession of their parents compound or land gained from parents through gift, which can be seen in the 2005 line map, then possession of a farmer's descendant who reaches majority age by proof of birth certificate is regularized measuring up to 150 square meters by the system of old possession for only residential house by implying a restriction in the title deed if this possession conflicts with the urban planning laws.¹⁶²

The period of regularization provided under the lease proclamation no.724/2011 is four years and the directive though it was enacted 2 years later than the proclamation, it reveals the regularization to be completed within the remaining two years' time after the coming into force of this directive.¹⁶³ The possession regularized will be entered into the land bank and transfer office unless the possessors sign a lease contract and take the title deed prepared in their names within three months.¹⁶⁴

3.3. Cassation Decisions of the Federal Supreme Court

The Federal Supreme Court Cassation Division, by C/F/No. 153257 on October 30, 2011 E.C, affirmed the lower courts' decision on the revocation of title deed by Addis Ababa Bole Sub-city land development and management office et.al due to an inclusion of green area and open space against the Applicant Mr. Tarakegn Kassa. The court gave its reason stating that a title deed

¹⁶⁰Id. Art. 15.1.

¹⁶¹ Id. Art.16.4.

¹⁶² Id. Art.16.5.

¹⁶³ Id. Art.18.1.

¹⁶⁴ Id. Art. 18.2, 18.3.

given earlier can be found contravening the local development and parceling plan which needs to be corrected upon it is noticed.

The bench decided also on an old possession partitioned between heirs, whereby the respondent opposed and argued that out of the 934 square meters without title deed possession of the applicants' predecessor 500 square meters should be held through the old possession and the remaining 434 square meters should be held by leasehold as per the administration of possessions without title deed directive no.17/2014. The bench reasoned out its rejection of the respondents argument that the directive cannot be against Art.6(3) which states that an old possession transferred to heirs is held by a system of an old possession.¹⁶⁵

The cassation bench passed a mandatory decision on a case between Mr. Mehamed Abiye vs. Nefas Silk Lafto Subcity Land Development and Urban Renewal Office et.al concerning the claim of replacement land by the Applicant against the respondent. The summary of the decision is that the possession claimed by the Applicant did not have a house that can be seen on the line map taken in 1997 E.C so that the Applicant is not illegible to get replacement urban land.¹⁶⁶

The Federal Supreme Court Cassation Division affirmed the lower courts' decision on the illegality of expanding adjacent urban land beyond the lawful possession against the Applicant Mr. Daniel Tekleab. The court gave its reason stating that expansion of possession out of the legal boundary and blocking the neighbors outlet of internal road is illegal and as such it must be dispossessed.¹⁶⁷

The Federal Supreme Court Cassation Division affirmed the lower courts' decision on the illegality of expanding adjacent urban land beyond the lawful possession against the Applicant Ms. Birkie Kebede. The court gave its reason stating that expansion of possession out of the legal boundary and blocking the neighbors' outlet of internal road approved by the master plan is illegal and as such it must be dispossessed.¹⁶⁸

¹⁶⁵Mr. Tarekegn Kassa vs. Addis Ababa Bole Sub-City Land Administration Office, Cassation Decision of Federal Supreme Court, (2011 E.C), C/F/No.153257 (Unpublished).

¹⁶⁶ Mr. Mehamed Abiye vs. Addis Ababa Nefas Silk Lafto Sub-City Land Development and Urban Renewal Office et.al., Cassation Decision of Federal Supreme Court, (2010 E.C), C/F/No.152046 (Unpublished).

¹⁶⁷ Mr. Daniel Tekeleab vs. Mr. Dereje Hundie, Cassation Decision of Federal Supreme Court, (2011 E.C),C/F/No.158911, (Unpublished).

¹⁶⁸ Ms. Birkie Kebede vs. Ms. Fikirte Kibebew et.al., Cassation Decision of the Federal Supreme Court, (2013 E.C), C/F/No.185694,(Unpublished).

The Federal Supreme Court Cassation Division also affirmed the lower courts' decision on the revocation of title deed by Addis Ababa Yeka Sub-city land development and management office due to an inclusion of an open space against the Applicant Ms. Zeytuna Sugi. The court gave its reason stating that a title deed given earlier can be found contravening the master plan and local development especially, when a plot is included without the authorization of the appropriate body, which needs to be corrected upon it is noticed. The Applicant was found taking a title deed which includes 69 square meters of land adjacent to the lawful possession whereby this extra plot cannot be included by directive no. 18/2014 unless it is proved that the plot has a house on the line map taken in 2005 or the wereda administration confirms with supportive documents that a house was in the hands of the Applicant before 2005.¹⁶⁹

3.4. International laws related to Informal settlement

The right to housing is enshrined in the Universal Declaration of Human Rights. According to article 25 (1), everyone has the right to a standard of living adequate for his or her own and his or her family's health and well-being, including food, clothing, housing, medical care, and necessary social services. Many international treaties have since recognized the right, including the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Rights of the Child, and the International Convention on the Elimination of All Forms of Racial Discrimination. The Human Rights Committee and the African Commission on Human and Peoples' Rights have all condemned forced evictions as violating various civil rights. The Committee on Economic, Social, and Cultural Rights outlined the content of the right to housing in General Comment No. 4. The right to housing, defined as a place to live in peace, security, and dignity, must meet the following criteria: (a) legal security of tenure; (b) availability of services, materials, facilities, and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) adequate location; and (g) cultural adequacy.¹⁷⁰

Governments are also expected to ensure nondiscrimination and equal housing rights for men and women. The Committee has focused specifically on security of tenure, stating that it can take many forms, including rental (public and private) accommodation, cooperative housing, lease, owner occupation, emergency housing, and informal settlements, including land or property

¹⁶⁹Mrs. Zeytuna Sugi vs. Addis Ababa Yeka Sub-City Land Administration Office et.al.Cassation Decision of the Federal Supreme Court, (2013 E.C), C/F/No.194369 (Unpublished).

¹⁷⁰ United Nations (2008), Claiming the Millennium Development Goals: A Human Rights Approach.

occupation. According to the Committee, all persons, regardless of type, should have a degree of security of tenure that guarantees legal protection against forced eviction, harassment, and other threats.

The States Parties to Economic, Social and Cultural Covenant acknowledge everyone's right to a decent standard of living for himself and his family, including adequate food, clothing, and shelter, as well as the right to continuous improvement in living conditions. States Parties will take appropriate steps to ensure the realization of this right, recognizing the critical importance of international cooperation based on free consent in this regard.¹⁷¹ The Second United Nations Conference on Human Settlements (Habitat II) adopted access to land and security of tenure as conditions for sustainable development in 1996.¹⁷² The United Nations Member States committed to the goal of "providing legal security of tenure and equal access to land to all people, including women and those living in poverty," in the Istanbul Declaration. They also promised to provide transparent, comprehensive, and accessible systems for transferring land rights and legal tenure.¹⁷³ They aimed at increasing the supply of affordable housing, including encouraging and promoting affordable home ownership as well as increasing the supply of affordable rental, communal, cooperative, and other housing through collaborations between public, private, and community initiatives, as well as creating and promoting market-based incentives.¹⁷⁴ It is a commitment by the member States to pursue goals regarding the improvement of sustainability in housing.

Sustainable Development Goal 11 aims to make cities inclusive, safe, resilient and sustainable. According to the Agenda 21 action plan,¹⁷⁵ "by examining all land uses in an integrated manner, it is possible to minimize conflicts, make the most efficient trade-offs, and link social and economic development with environmental protection and enhancement, thus aiding in the achievement of the objectives of sustainable development." The integrated approach's essence is expressed in the coordination of sectoral planning and management activities dealing with

¹⁷¹ International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1).

¹⁷² Istanbul Declaration on Human Settlements and the Habitat Agenda, The United Nations Conference on Human Settlements (Habitat II), Having met at Istanbul from 3 to 14 June 1996.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ United Nations Conference on Environment & Development, Rio de Janeiro, Brazil, 3 to 14 June 1992.

various aspects of land use and land resources.¹⁷⁶ According to the action plan, more effective and efficient use of land and natural resources is required if future human needs are to be met in a sustainable manner.¹⁷⁷

3.5 Chapter summary

Land being a base to economic, social and cultural rights is a center of public policy issues. To exercise these rights and power control, land in Ethiopia is under the state control and public ownership. Various laws in relation to urban land were enacted and organizations for its administration and protection from abuse are established. The dominant one is the urban land lease holding proclamation that dictates the urban land tenure system of Ethiopia to be only leasehold with the exception of old possession. This law prohibits an enclosure of urban land without securing a permission from the appropriate authority or organ of government administering land. Furthermore, it intended to solve the issue of informal settlements through regularization by allowing regions' to enact their own enabling laws for regularization. However, this law proclaimed the regularization of informal settlements before its enactment not to spend more than four years. The proclamation makes clear that there is no future regularization of informal settlements. That is why Addis Ababa City Administration enacted Regulation No. 65/2014 which allows to regularize illegal urban land possessions in Addis Ababa held up to April 2005 and demolition of constructions and holdings after this time. Addis Ababa City Administration is still performing regularization of informal holdings up to 2005 by enacting two consecutive directives. The first one is regularizing informal holdings and formal holdings with informal ones from a long time ago, may be from the time of Haile Selassie I up to 1996. Directive No.17/2014 requires that a house must be seen from the line map taken from April 1996 to provide a regularization service. This directive has detail requirements of regularization.

The second regularization directive is intended to regulate illegal holdings up to 2005 which basically requires also a house constructed on the illegal holding to be seen on the April 2005 aerial map for giving a regularization service to the informal holder. These regularization directives declared the informal holder to enter into a lease contract for the land to be regularized

¹⁷⁶ Ibid.

¹⁷⁷ Network of Associations of Local Authorities in South-East Europe (NALAS) (2011), Challenges of regularization of informal settlements in South East Europe: Overview of the relevant urban planning and legalization laws and practice, p.20.

most of the time based on payment of initial lease price for only 75 square meters. While we consult regulation no. 65/2014 and directive no. 18/2014 of Addis Ababa City Government, it is clear that regularization is impossible after 2014 in Addis Ababa city. The establishment of Code Enforcement Authority is one implication of this and for prevention and eradication of informal settlements in the city.

Chapter Four: The Experience of South Africa

4.1. The South African Approach to Informal Settlements: Setting and Experience

A South African town planner, Philip Harrison, explained that seven million South Africans live in urban informal housing, which is an important component of South Africa's urban landscape that cannot be ignored or avoided, developing on the outskirts of cities and on vacant land within local authority boundaries.¹⁷⁸ He also discussed that the state's response to informal settlement has changed over time and has been influenced by larger political objectives.

Prior to 1923, there was early urbanization and the Public Health Movement. From 1923 to 1939, the Native Urban Areas Act (influx control and racial segregation), from 1939 to 1948, rapid urbanization and the proliferation of informal settlements, and from 1948 to 1967, apartheid, mass housing, and the destruction of informal settlements.¹⁷⁹ By the mid-1960s, informal settlement within and around South Africa's towns and cities had been largely eradicated.¹⁸⁰

The 1967-1979 marks housing freeze and re-emergence of informal settlement revealing the unavoidable reality of de facto informal settlement.¹⁸¹ Prior to the 1960s, informal settlements were universally despised as a source of crime and disease. However, after the 1960s, they were seen as part of solutions. Between 1979 and 1985, self-help housing, as well as the gradual acceptance of black urbanization, are examples of such initiatives.¹⁸² Rapid urbanization and years of inactivity in the housing sector had resulted in the emergence of a new generation of informal settlements. This reality prompted calls for the government to abandon its official

¹⁷⁸ Philip Harrison (1992), *The Policies and Politics of Informal Settlement in South Africa: A Historical Perspective*, *Africa Insight*, vol. 22, no. 1, p.14.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

policy of public housing, as well as the high zoning and construction standards that discouraged lower-quality housing. Squatting would not be tolerated, but where it is a reality, it must be controlled and upgraded where possible.

From 1986-1990 orderly urbanization policy was followed, and after 1990 democratization and urban reconstruction where squatting can be controlled indirectly through measures such as legalizing certain existing settlements, upgrading, providing land for site-and-service schemes, and determining economically feasible standards as controls in designated areas.¹⁸³ The Prevention of Illegal Squatting Act, as well as the measures proposed by the President's Council, would continue to apply direct controls.

Bernstein made this point when discussing the three possible government approaches to informal settlements: coercive (shack demolition, harassment, etc.); laissez faire, in which development is allowed to occur without government intervention; and supportive, in which informal settlements are upgraded where appropriate and site-and-service schemes are promoted.¹⁸⁴

South Africa's 1996 Constitution includes both the right to housing and a prohibition on evictions without a court order.¹⁸⁵ The Prevention of Illegal Evictions Act, which was later enacted to put these constitutional rights into action, requires a court to take into account all relevant factors before ordering an eviction.¹⁸⁶ This includes the circumstances and length of occupancy, as well as whether the occupants have access to alternative housing. While the public interest is frequently used to justify eviction, the law states that it also includes "the health and safety of those occupying the land." The existence of these rights has aided in the prevention of forced evictions, and courts have intervened to require alternative housing. However, in cities, informal settlers, tenants, and homeowners are being evicted for a variety of reasons.

The deliberate improvement or strengthening of land tenure is most commonly understood to mean formalization, and 'formalization' entails the formal registration and issuance of titles to persons in possession of ostensibly unsubstantiated and relatively insecure land-based assets.¹⁸⁷ Many sources consider 'registration and titling' to be the most important forms of formalizing

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Constitution of the Republic of South Africa, Act 108 of 1996.

¹⁸⁶ The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act No. 19 of 1998.

¹⁸⁷ Aliber & Popoola (2018), REDI3x3 Working Paper 49, Economic development and tenure security in South Africa, p.7.

land ownership.¹⁸⁸ South Africa's post-apartheid housing programme was one of the continent's most daring initiatives.¹⁸⁹ Similarly, multi-sector government-led housing programs and slum upgrading in Tunisia and Egypt have successfully reduced both the proportion and absolute numbers of slum dwellers, resulting in progress in slum prevention. Ethiopia's recent Integrated Housing Development Programme was an example of a bold national initiative that aimed to deliver 100,000 housing units per year.¹⁹⁰ Given the rising demand for housing and the shrinking human settlements budget, the key to addressing the housing backlog is to empower citizens through economic development and employment, allowing citizens to take over housing responsibility from the government by building their own homes and communities.¹⁹¹

4.2. Key Lessons to Draw for Ethiopia

South Africa has a long history in dealing with informal settlements and followed mass housing programmes to reduce their proportional growth. It has seen that eradication of informal settlements did not bring a lasting solution so that it tried many alternatives to promote the right to housing. Ethiopia can take an experience from this as only eradicating informal settlements cannot bring a solution and as such, promotion of housing rights through following lawful alternatives updated with the current laws and technology of the time. It is important to adapt the fast construction mechanisms not compromising durability at the time in order to shorten the waiting list for condominium houses.

¹⁸⁸ Ibid.

¹⁸⁹ Supra note 72.

¹⁹⁰ Ibid.

¹⁹¹ Yeukai Mukorombindo (2014) , Public Service Accountability Monitor, Eradicating Informal Settlements by 2014: A goal deferred, Eastern Cape Department of Human Settlements Budget Analysis 2014/15, p.7.

Chapter Five: Findings, Conclusion and Recommendations

5.1. Findings

The main types of informal settlements in Ethiopia include illegal occupation of banked and unbanked land, illegal expansion of land adjacent to a lawful possession, and illegal construction on land occupied lawfully or unlawfully. The Addis Ababa Municipal Code Enforcement Authority investigated and identified illegal land occupation and illegal construction in Addis Ababa from 2014 to 2017. The Authority's annual performance report explained that from 2014 to 2020, it took measures on 50,654 illegal land occupation, 32,460 illegal construction and 4,120 unlawful expansion to an adjacent land. Interview from officials and key informants working in the Authority revealed the next detail information. From its reestablishment in 2013 up to now the Authority is exerting its concerted effort to prevent and reduce the informal land occupations. In 2014, the Authority from trespassers protected 99% of 2,646,505,186 square meters of land received from the Land Development Bank. In fiscal year 2014, 5,914 houses and fences were identified as illegal land grabs and legal action was taken against 4,443 (75.13%). The same year, 3,975 people and organizations on unlawful expansion were identified and acted upon (82.82%) and 11,909 were identified as having illegally built entrances on lawful possession and action was taken against 7,814 illegal builders (65.6%). In 2015, the number of persons/organizations committing illegal land encroachment was identified in 5,806 surveillance and enforcement cases, of which action was able to be taken on 5,388 (92.8%). At the same time, 1,523 persons/organizations were identified as having expanded land, of which 1,306 (85.75%) were able to take action. In addition, 6,228 people and organizations were identified as having illegally constructed buildings on legal possessions, of which measures have been taken on 4,975 (79.9%). In general, educational activities on land and land-related issues have been conducted to discourage offenders moving from the city to the district, but individuals who have not lessoned from was fined for and converted to state fiscal revenue. The total number of cases is 13,557 and the actions taken are 11,669, which is 86%.

In 2016, 15,696 settlements/organizations were monitored and controlled in terms of prevention, control and action against rule violations by city governments, and 14,070 measures were taken with an implementation rate of 89.64%. 699 individuals and organizations were monitored and controlled for illegal land expansion, and action was taken against 621, with an implementation

rate of 88.84%. 8,955 persons/organizations have been monitored and controlled for illegal construction on legal possessions and 7,514 actions have been taken, with an implementation rate of 83.90%.

In 2017, the city monitored and cracked down on 5,519 cases of illegal land occupation, implemented prevention, crackdown, measures, and seizures for violations of regulations, and took measures against 5,311 cases, with an implementation rate of 96.2%. 572 individuals and organizations were monitored and controlled for illegal land expansion; action was taken against 554, with an execution rate of 96.85. 9,096 individuals/organizations were monitored and controlled for illegal construction on legal possession, and action was taken against 8,647, with an implementation rate of 95.06%.

In 2018, 9,821 cases of illegal land occupation were monitored and controlled in our city, and measures were taken to prevent, control and take measures to confiscate violations of regulations. 430 individuals and organizations were monitored, controlled and legal action taken for illegal land expansion. 5,852 persons/organizations were monitored and controlled for illegal building on legal property and action was taken against them.

In 2019, the city monitored and controlled 11,557 illegal land occupations and took steps to prevent, control, prosecute and confiscate regulatory violations. 1,822 people and organizations were monitored, controlled and prosecuted for illegal land expansion. 5,399 people/organizations were monitored and controlled for illegal construction activities.

In 2020, the city has monitored and controlled 10,795 illegal land occupations, and has taken steps to prevent, control, and take action against rule violations and confiscation. 693 people and organizations were monitored and controlled for illegal land expansion and action was taken against them. 5048 persons/organizations were monitored and controlled for illegal building on legal property and action was taken against them.

Efforts are being made to reduce code violations through prevention activities, while at the same time steps are being taken to crack down and deal with illegal offenders. In 2021, hence there were 17,510 land invasions. 5,231 cases of illegal construction; and 891 land expansions were prevented, controlled or demolished.

The above actions were taken on illegalities done after 2014. Informal settlement in urban Ethiopia manifests itself in a variety of ways. Informal settlement is the holding of urban land without the use of formal landholding methods. In urban Ethiopia, informal settlement manifests itself on legally or illegally occupying urban land.

When a legal landholder does not have a holding certificate issued by the land holding registration authority, he or she is considered an informal settler. These urban landholders have held urban land for a long time under the previous land tenure system but do not have current urban land holding title deed but another supporting evidence. Through regularization, these types of informal holders receive an urban land holding certificate. Because these holdings were not held without permission, Service for the holdings without title deed or documents Directive No. 17/2014 allows them to be regularized. Because these holdings were not held without the permission of the then-authorized body, the urban land laws allow for their regularization. Despite the fact that the land lease proclamation stated that regularization would be permitted for only four years from the date of the proclamation's entry into force in 2011, these holdings remain regularized to this day. Key informants from Addis Ababa's Land Development and Administration explained urban landholdings starting from even during the Emperor Haile Selassie I up to April 1996 (1988 E.C) are still being regularized today based on the above mentioned directive.

The second type of informal urban settlement is through illegal means. The 1995 FDRE Constitution clearly stipulates that the right to own land belong only to the state and the peoples of Ethiopia. In this way, it is clear that the right of citizens to use land equally can be ensured only when it is possible to prevent and stop illegal land invaders. However, the current urban landholding proclamation through lease system, permitted city administrations and regions to enact regulations and directives for regularization of illegal holdings save for they are contravening urban plans. That is why the Addis Ababa City Government enacted Regulation No. 65/2014 and Directive No. 18/2014 for correction of illegal holdings in line with urban plans. These regularization laws provide that only holdings having houses seen on the 2005 air map will get acceptance for regularization and if they contravene urban plans, they will be relocated to a replacement land having the minimum 75 square meters. However, this directive allows farmers to up to 500 square meters and their children up to 150 square meters for

residence. Here, without relocation in the case of urban plan contravention, only the contravention is implied on the title deed and regularized. Illegal holdings are regularized upon entering into a lease-holding contract based on initial price with the urban land bank and transfer office of the respective sub-city. Although, the directive permitted regularization of holdings only up to April 2005, key informants reveal that in case a house cannot be seen at the 2005 line map due to different reasons, the 2011 air map will be referred to see if the house is observed there to make the regularization of illegal holdings. They also added that plan contraventions due to informal settlements are regulated sometimes by correcting the plan itself especially local development and parceling plans. One key informant in Addis Ababa City Nefas Silk Lafto Sub-City mentioned that there was a move in 2018 to regularize illegal holdings up to 2011 and suddenly stopped. This indicates the probability of future regularization in the city administration's side.

5.2. Conclusion

The master plan with its supportive circulars is a law. In addition, the urban land lease, building and urban planning proclamations prohibit illegal land occupations and construction to prevent problems associated with informal settlement in sanitation, access to services and urban beautification. Continuing regularization is continuing with the many problems arising out of slums. Moreover, regularization promotes recurrent proliferation of informal settlements and non-observance of pertinent urban land and planning laws. This leads to the scarce urban land to be abused and inefficiently used where law abiders are rewarded while law observers remain without residential as well as commercial houses. This makes rule of law in futile. Therefore, continuing regularization is not advisable at least for illegal holdings after May 2005. Though the directive makes clear that constructions on illegal holdings are without a precondition to be demolished, illegal holders and speculators are continuing holding illegally hoping for the expectation of regularization. Most of the time, regularization of informal settlements can not be performed without contravening urban land and planning laws. Regularization in Ethiopia is not permitted after this as the urban land lease-holding proclamation closed the door after once permitted in it.

5.3.Recommendations

Informal settlements in Ethiopia pose problems surpassing opportunities. Therefore, continuing regularization of informal settlements in Ethiopia is not advisable except for upgrading slums for urban renewal. The government of Ethiopia is recommended to announce to the public to refrain from settling informally and there is no promise of regularization once for all. It is also recommended to strengthen the structural status of Code Enforcement Authorities and support their functions. The government is also advised to be committed in promoting housing rights using other alternatives like condominium housing, housing cooperatives associated with financial organizations for credit facilities and others fitting with the present time.

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Interview with MohammedHussein, Land Digitalization Team Leader, Addis Ababa City Land Development and Administration (Addis Ababa, Ethiopia, 9 May 2022)

Interview with HenokFekadu, Service Improvement and Land Information Works Department Coordinator, Nefas Silk Lafto Sub City Land Development and Administration Office (Addis Ababa, Ethiopia, 12 May 2022)

Interview with Eyob Kebede, Director, Code Violations Follow up, Controlling and MeasureTaking Directorate, Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

Interview with Mulunesh Girma, Code Violation Controlling Team Leader, Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

Interview with Daniel Ketsela, Code Violations Controlling Team Leader, Kirkos Sub City Code Enforcement Office (Addis Ababa, Ethiopia, 5 May 2022).

Interview with Misirach Girma, Awareness Creation Officer, Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

Interview with Commander TessemaNegash, former Deputy Chief Executive Officer of Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

Interview with Hani Alemu, Awareness Creation Officer, Officer of Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

Interview with Serkalem Getahun, Awareness Creation Officer, Officer of Addis Ababa City Code Enforcement Authority (Addis Ababa, Ethiopia, 16 May 2022)

List of Focused Group Discussion (FGD) participants

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Eshetu Wegaso, Assistant Judge, Federal Supreme Court (Addis Ababa, Ethiopia, 28 May 2022)

Mezemir Tenkir, Attorney at Law, Federal Courts (Addis Ababa, Ethiopia, 28 May 2022)

Endashaw Adane, Judge, Federal Supreme Court Cassation bench (Addis Ababa, Ethiopia, 28 May 2022)

Seble Mulat, Assistant Judge, Federal Supreme Court (Addis Ababa, Ethiopia, 28 May 2022)

Rahel Yohannes, Former Judge, Social Court of Addis Ababa City (Addis Ababa, Ethiopia, 28 May 2022)

Solomon Azmeraw, Assistant Judge, Federal Supreme Court (Addis Ababa, Ethiopia, 28 May 2022)

Dinka Alemayehu, Assistant Judge, Federal Supreme Court (Addis Ababa, Ethiopia, 28 May 2022)

Temam Ali, Assistant Judge, Federal Supreme Court (Addis Ababa, Ethiopia, 28 May 2022)

Cheru Debiso, Lawyer, Nefas Silk Lafto Sub City Land Development and Administration Office (Addis Ababa, Ethiopia, 12 May 2022)

Esmael Mengistu, Lawyer, Lideta Sub City Land Information and Registration Office (Addis Ababa, Ethiopia, 12 May 2022)

Annex-1: Interview Guide

1. What type of urban land is occupied illegally in Addis Ababa?
2. Which parts of Addis Ababa are more prone to illegal land occupation?
3. Which segment of the population take part in illegal occupation of land? From where do they come?
4. What do the livelihood of illegal land occupiers resemble? Rich or poor?
5. Are there informal settlements having basic services like water, electricity, sanitation, and telephone lines?
6. Are there any regularization activities in Addis Ababa? How many of them fit with the urban plans?
7. Is illegal land occupation increasing or decreasing?
8. What are the requirements for regularization of urban land in Addis Ababa?
9. What are the impacts of informal settlements in Ethiopia?
10. Until when regularization continues?
11. Is Regularization possible and advisable in the current urban land law regimes?

Annex 2: Attachment of A Few Copies of Cassation Decisions of Federal Supreme Court